

**DEPARTMENT OF STATE REVENUE  
LETTER OF FINDINGS: 96-0144  
INDIVIDUAL INCOME TAX  
For the 1992, 1993, and 1994 Tax Years**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Taxability of Corporate Officer's Compensation Consisting of the Payment of Life Insurance Premiums.**

**Authority:** IC 6-8.1-5-1(b); 45 IAC 3.1-1-1; 45 IAC 3.1-1-2; I.R.C. § 62.

Taxpayer protests the audit's determination that payment of life insurance premiums by a corporation, of which the taxpayer was an officer, constituted additional compensation subject to assessment under the state's individual income tax scheme.

**STATEMENT OF FACTS**

An audit was performed on corporate taxpayer. During the course of that audit, it was determined that individual taxpayer, as an officer of the corporation, received certain compensation from corporate taxpayer. A portion of that compensation included the payment of life insurance premiums on behalf of the individual taxpayer. The audit determined that the premiums constituted part of the individual taxpayer's gross income and was subject to the state's individual income tax. Except for the issue of the taxability of the life insurance premiums, taxpayer has waived all other issues originally raised in his letter of protest.

**DISCUSSION**

**I. Taxability of Corporate Officer's Compensation Consisting of the Payment of Life Insurance Premiums.**

Taxpayer was assessed additional tax on compensation – received by taxpayer in his capacity as a corporate officer – in the form of life insurance premiums.

45 IAC 3.1-1-1 provides the starting point for defining taxpayer's taxable income. The regulation provides that adjusted gross income for individuals is "defined in Internal Revenue Code § 62 modified as follows: (1) begin with gross income as defined in section 61 of the Internal Revenue Code." Taxpayer is required to "report all income as defined by § 61 of the Internal Revenue Code." 45 IAC 3.1-1-2.

That portion of I.R.C. § 62 relevant to taxpayer states that "[e]xcept as otherwise provided in this subtitle, gross income means all income from whatever source derived including (but not limited to) the following items: (1) Compensation for services including fees, commissions, *fringe benefits*, and similar items . . . ." (Emphasis added).

Taxpayer's "notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the assessment is made." IC 6-8.1-5-1(b). Taxpayer has failed to provide a substantive, legal basis upon which to determine that the payment of taxpayer's life insurance premiums did not constitute a fringe benefit under I.R.C. § 62 or that the payments should be counted as part of the taxpayer's gross income under 45 IAC 3.1-1-2.

### **FINDING**

Taxpayer's protest is respectfully denied.